

INDIANA DEPARTMENT OF EDUCATION
 Division of Language Minority and Migrant Programs
 Guidelines to Satisfy Legal Requirements
 of
 Title VI of the Civil Rights Act of 1964 (42 USCS, 2000d)
 Lau v. Nichols (1974) 414 US 563, 39L ED 2d1, 94 S Ct 786
 Equal Educational Opportunities Act of 1974 204(f), 20 USCA 1703(f)
 and 511 IAC 6.1-5-8

Section I: Establishment of Policies and Procedures

A. The school corporation shall administer a Home Language Survey (census) to identify the first (native) language(s) of all students enrolled in the school corporation. The Home Language Survey shall elicit the following information:

1. What is the native language of the student?
2. What language(s) is spoken most often by the student?
3. What language(s) is spoken by the student in the home?

Two steps are necessary to implement this process.

1. Administer the Home Language survey to all students enrolled in the school corporation.
2. Use the Home Language Survey in the enrollment process to identify the native language of each new student at the time of enrollment into the school corporation.

Documentation of a student's native language shall be recorded in the permanent record. School corporations shall implement an identification procedure to survey all students in the district with the above three questions.

B. As required by the *No Child Left Behind* Act, the school corporation must assess all students whose first (native) language is other than English to determine whether a student is Fluent English Proficient (FEP, see level 5 below) or Limited-English Proficient (LEP, see levels 1-4 below). Each Spring, all LEP students must participate in the LAS Links English proficiency assessment. Newly-enrolling students must be assessed for identification as LEP using the LAS Links Placement Test within thirty (30) days of enrollment at the beginning of the school year or within two (2) weeks during the school year.

Assessment shall, to the extent possible, include listening, speaking, reading, and writing abilities, as well as academic achievement. Language proficiency levels are described below:

- Level 1: Students performing at this level of English language proficiency begin to demonstrate receptive or productive English skills. They are able to respond to some simple communication tasks.
- Level 2: Students performing at this level of English language proficiency respond with increasing ease to more varied communication tasks.

- Level 3: Students performing at this level of English language proficiency tailor the English language skills they have been taught to meet their immediate communication and learning needs. They are able to understand and be understood in many basic social situations (while exhibiting many errors of convention) and need support in academic language.
- Level 4: Students performing at this level of English language proficiency combine the elements of the English language in complex, cognitively demanding situations and are able to use English as a means for learning in other academic areas, although some minor errors of conventions are still evident.
- Level 5: Students performing at this level of English language proficiency communicate effectively with various audiences on a wide range of familiar and new topics to meet social and academic demands. Students speak, understand, read, write, and comprehend in English without difficulty and display academic achievement comparable to native English speaking peers. In order to attain the English proficiency level of their native English-speaking peers, further linguistic enhancement and refinement are necessary.

NOTE: Oral language skills shall not be the sole criterion for determining language proficiency. Academic achievement and writing and reading abilities in English must also be considered.

C. The school corporation shall establish standards for placement of language minority students into instructional programs in accordance with the following criteria:

1. Students must be placed age appropriately.
2. If the student is fluent English proficient, placement will be in the regular instructional program.
3. If the student is limited-English proficient, placement will be made into an appropriate instructional program that provides English language development for a minimum of one (1) hour daily. (see section D).
4. Review previous educational records of students to determine the grade level attained in his/her home country.

D. The school corporation shall provide equal educational opportunity to language minority students with the appropriate level of English language development to allow for meaningful participation of language minority students in the district's educational program. Such instruction shall take place during the regular school day. A minimum of one (1) hour daily is appropriate for LEP students at English proficiency levels 1-4.

One or more of the following approaches to instruction may be used:

1. English as a Second Language (ESL): specially designed classes of English language instruction for limited-English proficient students. All other subjects taken by the students are part of the general school curriculum and are taught in English.
2. English as a New Language (ENL): a course for high school students which may count as four of the eight English credits needed for high school graduation. Under Certification Type Rules 46/47, teachers with any license may teach the course although the K-12 ESL is strongly recommended. Under Certification Type Rules

2002, teachers must have the content area certification (ENL) and the high school setting licensure to teach the course. See course descriptions for more information.

3. Transitional Bilingual Education: includes language arts and content area (e.g., science, social studies, and math) instruction in the native language in addition to English as a Second Language (ESL) instruction.
4. Sheltered English/Structured Immersion: specially designed English language instruction for teaching ESL in the content areas.
5. Tutorial: individual tutoring of limited-English proficient students in ESL, native language or specific content areas.

E. The school corporation shall have specific criteria established to safeguard appropriate placement and subsequent delivery of services to exceptional language minority students. The PreReferral process to Special Education should include an assessment in the native language and in English to provide evidence that difficulty exists in both languages. A referral should only be made after all other avenues have been explored and it has been determined that the child's needs can not be met by the regular education program. (The complete PreReferral Checklist is available from the Division of Language Minority and Migrant Programs.) These criteria will be designed in accordance with Indiana Rule S-1.

F. The school corporation shall provide counseling services to language minority students in the following areas:

1. social, emotional adjustment to United States culture
2. drop-out prevention
3. technical vocational training
4. college preparatory coursework
5. substance abuse
6. teenage pregnancy and prevention

The limited-English proficient student should be counseled in his/her native language, when possible or necessary.

G. Retention of language minority students shall NOT be based solely upon English language proficiency. Appropriate classroom modifications should be made for each language minority student to ensure meaningful participation in the educational program. (Retention Guidelines are available from the Division of Language Minority and Migrant Programs.)

H. The school corporation shall employ or train sufficient qualified personnel to provide instructional services appropriate to the needs of limited-English proficient students. Students must receive instruction from properly certified, licensed teachers. 511 IAC 6.1-3-1(d). Instructional aides **must** work under the direct supervision of a certified teacher and should **not** have the sole responsibility of teaching units of study. 511 IAC 1-8-7.5. The ratio of the number of limited-English proficient students to qualified teachers in a class shall not exceed the state mandated student/teacher ratio for all classrooms.

I. School corporations shall develop explicit criteria for deciding when LEP students no longer require ESL services. Such decisions shall be based upon the following:

- ⊕ The student's level of academic achievement indicates ability to handle material in the content areas.

- ⊕ The student's English language proficiency is sufficient to function in an English-only environment.
- ⊕ The student's English reading abilities are such that the student can relate to the materials being read on his/her grade level.
- ⊕ Collective decision of a committee consisting of, but not limited to, the ESL/Bilingual teacher and the regular classroom teachers.

J. School corporations shall ensure that LEP students in self-contained ESL/Bilingual classes are given as much opportunity as possible to interact with English speaking peers at lunch, recess, in art, music, physical education and other elective classes.

K. School corporations shall provide evidence that communication between the school and the home, whether about language minority student progress or school activities, is conducted, to the extent possible, in the native/preferred language of the home.

L. School corporations shall maintain records that indicate the following: the native language of the student,

- I. the English language proficiency level of the student,
- II. the type and frequency of instructional services offered, and
- III. other intervention strategies employed.

A recommended method of maintaining this information is the use of an Individual Learning Plan (ILP) for each language minority student. (Sample ILP forms are available from the Division of Language Minority and Migrant Programs.)

Section II: Report and Review

Public Law 221, continuous improvement for all students, encompasses the demonstration of growth of language minority students. NCLB requires annual improvement of students' English language proficiency. School corporations will be responsible for demonstrating the effectiveness of their services to language minority students in their individual School Improvement Plans in conjunction with Legal Standard 28 (511 IAC 6.1-5-8). Annual reporting of language minority data will be submitted to the Division of Language Minority and Migrant Programs.

Section III: Training

School corporations shall participate in training programs designed to help the development and implementation of these guidelines offered and facilitated by the Division of Language Minority and Migrant Programs including in-services and technical assistance. Other resources for staff development include courses available through the Regional Educational Service Centers, various university level courses, annual conferences held by Indiana Teachers of English to Speakers of Other Languages (INTESOL) and the Division of Language Minority and Migrant Programs and national Teachers of English to Speakers of Other Languages (TESOL) and National Association of Bilingual Education (NABE) conferences.

Guidelines for the Placement of Language Minority Students

1. Students who enter your school system must complete a home language survey.
2. If the survey indicates that a student speaks a language other than English, he or she must be assessed for oral, reading and writing English language proficiency skills using the State-approved language assessment.
3. Students should be placed in an age-appropriate grade level. Placement below grade level should **only** be considered if the student has no prior school experience or if the student has been out of school for more than one academic year.
4. Initial scheduling of courses for LEP students should include classes designed to improve English language proficiency. Each student should receive the appropriate level of English language development.
5. Language minority students should be informed that they must meet graduation requirements if they intend to receive a high school diploma.
6. Migrant students graduating from home base schools need to be enrolled in courses that fulfill the home state's graduation requirements.
7. Modifications should be made to lessons and assignments by teachers in the content area classrooms with the appropriate level of English language development for each student.

IF YOU HAVE QUESTIONS CALL:
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(317) 232-0555 OR (800) 382-9962